

**LETTER OPINION
2004-L-76**

December 22, 2004

Dr. Wayne G. Sanstead
Superintendent of Public Instruction
600 East Boulevard Avenue, Dept. 201
Bismarck, ND 58505-0440

Dear Dr. Sanstead:

Thank you for your letter asking about the duty of school districts to monitor a home schooling parent who is not a qualified teacher. For the reasons discussed below, it is my opinion that, unless the parent selects and compensates an individual to monitor the child, the school district has a duty to assign and pay an individual to monitor the child. If the school district determines that the monitor should be accompanied by law enforcement or other security personnel, then the school district must pay for those services, if necessary.

ANALYSIS

A parent who is not a licensed teacher, does not hold a baccalaureate degree, or has not passed a national teacher examination, may still supervise home education if the parent has a high school diploma or a general education development certificate and is monitored in accordance with N.D.C.C. § 15.1-23-07 for at least the first two years. N.D.C.C. §§ 15.1-23-03, 15.1-23-06. State law also provides:

If monitoring is required under section 15.1-23-06, the school district shall assign and compensate an individual to monitor a child receiving home education unless the parent notifies the school district that the parent shall select and compensate an individual to monitor the child.

N.D.C.C. § 15.1-23-07(1) (emphasis added). If the parent has not selected an individual to monitor the child, the school district has the duty to assign and compensate an individual to monitor the child. If the school district determines that the monitor has reasonable fears

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for his or her safety, the school district, in order to fulfill its duty to monitor, must pay for law enforcement or other security personnel to accompany the monitor during the monitoring duties, if such compensation is necessary.

Sincerely,

Wayne Stenehjem
Attorney General

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This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts. See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).